SBCivil Writ Petition No.4908/2006

Babulal
Vs.
State of Rajasthan & Ors.

Date of Order :: 6th September, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. K.R.Choudhary, for the petitioner.

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By this petition for writ a challenge is given to the order dated 8.10.1998 passed by the Commandant, 4th Battalion, R.A.C., Jaipur imposing a penalty of dismissal from service after holding a regular inquiry as prescribed under Rule 16 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958 (hereinafter referred to as "the Rules of 1958"). The petitioner while giving challenge to the order aforesaid has also stated in the writ petition that an appeal/representation submitted by him on 20.11.2001 has also not decided by the competent authority, therefore, a direction may be given to the authority competent to decide appeal/representation by the petitioner without entering into merits of the order dated 8.10.1998.

Heard counsel for the petitioner.

The petitioner submitted a representation to Hon'ble Chief Minister on 20.11.2001 praying to

reconsider the order passed by the disciplinary authority. As a matter of fact the representation submitted by the petitioner is absolutely misconceived as the order passed by the disciplinary authority is an order appealable and the appeal lies before the authority prescribed under Rule 23 of the Rules of 1958. It is also pertinent to note that the limitation to file an appeal under Rule 23 of the Rules of 1958 is 60 days from the date of the order imposing penalty whereas in the instant matter the representation was submitted to the Chief Minister in the year 2001. As such no direction can be given to Chief Minister to consider the representation submitted by the petitioner against the order passed by the disciplinary authority.

So far as the order dated 8.10.1998 is concerned, that was passed by the disciplinary authority after conducting regular disciplinary proceedings under Rule 16 of the Rules of 1958. The petitioner was having an efficacious alternative remedy to challenge the same by way of filing an appeal but he did not choose to do so.

Be that as it may, the present writ petition is also filed by the petitioner giving challenge to the order dated 8.10.1998 after a lapse of about 9 years. No explanation to justify such inordinate delay in assailing validity of the order impugned by way of

filing present writ petition is given by the petitioner.

The writ petition being filed after a lapse of 9 years without any justification suffers from delay and latches, therefore, the same is dismissed.

(GOVIND MATHUR),J.

kkm/ps.